IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7903 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

P U VAISHNAV

Versus

STATE OF GUJARAT

Appearance:

NOTICE SERVED for Petitioners No. 1-2

Ms. Manisha Lavkumar AGP for Respondent.

MR MD PANDYA for Respondents No. 2-3

CORAM : MR.JUSTICE K.A.PUJ

Date of decision: 11/12/2001

ORAL JUDGEMENT

The petitioners have filed the present petition seeking directions from this Court to the respondents to resort to promotional avenue for making appointments to the posts of Professors and Readers in J.S. Ayurved College at Nadiad. The petitioners have also prayed for quashing and setting aside Advertisement No. AM/1033/89-90 dated 13.9.1989 filed at Page 38, Annexure "G" to the petition and that pursuant to the said

advertisement no appointment had been made by the respondents. The petitioners have further sought a direction to the respondent No.1 to ensure full compliance of the Government Resolution dated 23.9.1997 filed at Page 21 Annexure `B' to the petition and also of the Government Resolution for the posts of Professors and Readers in the Ayurvedic Colleges. By way of an interim relief, the petitioners have prayed to restrain the respondents Nos. 2 and 3 from holding interview for the posts of Professors and Readers in J.S. Ayurvedic College at Nadiad. The interim relief was further sought for to the effect that this Court should direct the respondents to make appointments to the posts of Professors and Readers in the J.S. Ayurvedic College at Nadiad, by way of promotion.

2. That subsequently, by way of an amendment to the petition, the petitioners had prayed to restrain the respondents Nos. 2 and 3 from finalising the selection for and making appointments to the posts of Professors and Readers in the J.S. Ayurvedic College at Nadiad.

3. The petitioners have contended in the petition that the respondents have acted arbitrarily in deciding to make appointments to the posts of Professors and Readers in J.S. Ayurvedic College, Nadiad, only by direct recruitment and in not making appointments to the said posts by promotion. The petitioners have further contended that the Government Resolution dated 23.9.1987 was adopted by the respondents Nos. 2 and 3 so far as the revised pay-scales are concerned and yet they were not making appointments to the posts of Professors and Readers by promotion, although the recruitment rules for the posts of Professors and Readers in Government Ayurvedic Colleges first provide for promotional avenues and then for direct selection. It was further alleged in the petition that the respondents have acted arbitrarily and have gone beyond the scope of Government Recruitment Rules.

4. This Court has issued the notice on the respondents and by way of ad-interim relief the Court granted the same in terms of Para 15(DD) of the petition. The petition was admitted on 9.12.1991. However, the interim relief was refused on the ground that granting of interim relief would amount to allowing the petition at this stage. It is therefore clear that since December 1991, there is no interim relief in favour of the petitioner.

5. During the pendency of the petition, the

petitioners' Advocate, Mr. D.T. Soni was appointed as a Judge, City Civil & Sessions Court at Ahmedabad and hence fresh notice was issued to the petitioners on 27.9.2001 informing them to engage another advocate. The said notice was duly served on the petitioners on 9.10.2001. The notice to be returned to this Court clearly indicates the endorsement regarding service of the notice upon the petitioners. Despite service of the notice, neither the petitioners appeared personally nor they have engaged any advocate representing them before this Court on 18.10.2001 or even thereafter. The matter was placed for hearing on 7.12.2001 and on that occasion also no one was present on behalf of the petitioners. Since no one has appeared despite service of notice, it appears that the petitioners' grievance might have been redressed or petitioners might have lost interest in pursuing the matter any further. The petition is, therefore, dismissed for want of prosecution. It is, however, made clear that if the petitioners are aggrieved by this order of dismissal of the petition on the ground of non-prosecution, liberty is granted to them for revival of the petition by moving an appropriate application. Rule is discharged with no order as to costs.

rmr. [K.A. Puj, J.]